89-1548

IN THE SUPREME COURT OF THE UNITED STATES

October Term 1989

No. _____

IRVIN D. STAGNER,
Pro Se Petitioner-Appellant

v.

UNITED STATES PATENT & TRADEMARK OFFICE, COMMISSIONER OF PATENTS, DONALD QUIGG, DEPUTY ASSISTANT COMMISSIONER, JAMES E. DENNY, PETITION EXAMINER, JEFFREY V. NASE, DIRECTOR OF PATENT EXAMINING GROUP 320, SAMIH N. ZAHARNA, SUPERVISOR OF PATENT EXAMINING GROUP 320, FREDERICK R. SCHMIDT, PATENT EXAMINERS OF GROUP 320, JAMES G. SMITH AND DEBRA MEISLIN

Appellees

PETITION FOR WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS

FOR THE FEDERAL CIRCUIT

APPENDIX B

Petitioner Pro Se
Irvin D. Stagner
1814 Ellis
Wichita, KS 67211
316 264 2723

IN THE SUPREME COURT OF THE UNITED STATES

October Term 1989

No. _____

IRVIN D. STAGNER,
Pro Se Petitioner-Appellant

v.

UNITED STATES PATENT & TRADEMARK OFFICE, COMMISSIONER OF PATENTS, DONALD QUIGG, DEPUTY ASSISTANT COMMISSIONER, JAMES E. DENNY, PETITION EXAMINER,JEFFREY V. NASE, DIRECTOR OF PATENT EXAMINING GROUP 320, SAMIH N. ZAHARNA, SUPERVISOR OF PATENT EXAMINING GROUP 320, FREDERICK R. SCHMIDT, PATENT EXAMINERS OF GROUP 320, JAMES G. SMITH AND DEBRA MEISLIN

Appellees

PETITION FOR WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS

FOR THE FEDERAL CIRCUIT

APPENDIX B

Pursuant S. Ct. Rule 14.2 appendix as a separate document and S. Ct. Rule 33 (d), patent case, appendix as a different size document .

CONTENTS OF APPENDIX B

DECISIONS OF THE PATENT
AND TRADEMARK OFFICE

OFFICE ACTIONS (REJECTIONS).
See Administrative Record
Application Serial No. 671,168.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
[illegible]	[illegible]	[illegible]	

[illegible]

EXAMINER	
ART UNIT	PAPER NUMBER
	3

DATE MAILED

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☑ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ day(s) from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☑ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449
4. ☐ Notice of Informal Patent Application, Form PTO-152
5. ☐ Information on How to Effect Drawing Changes, PTO-1474
6. ☐ _____

Part II SUMMARY OF ACTION

1. ☑ Claim(s) 1 are pending in the application.

   Of the above, claim(s) _____ are withdrawn from consideration.

2. ☐ Claim(s) _____ have been cancelled.
3. ☐ Claim(s) _____ are allowed.
4. ☑ Claim(s) 1 are rejected.
5. ☐ Claim(s) _____ are objected to.
6. ☐ Claim(s) _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable, ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received. ☐ not been received. ☐ been filed in parent application, serial no. _____, filed on _____
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.
14. ☐ Other

PTOL-326 (Rev. 7-80)

EXAMINER'S ACTION

0085

1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim appears to recite each extension having two square openings and male square heads.

2. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

3. Claim 1 is rejected under 35 U.S.C. 103 as being unpatentable over Ayotte or Lareau and Ossul. It would be obvious to use both 45° bend extensions, as shown by Ayotte or Lareau, and 90° bend extensions, as shown by Ossul, in a set.

4. Any inquiry concerning this communication should be directed to Examiner James G. Smith at telephone number 703-557-6502.

9/10/85:slw.

James G. Smith
JAMES G. SMITH
EXAMINER
Art Unit 323

FORM PTO-892 (REV. 3-78)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

NOTICE OF REFERENCES CITED

SERIAL NO	GROUP ART UNIT	ATTACHMENT PAPER NUMBER
671168	323	3

APPLICANT(S): STAGER

U.S. PATENT DOCUMENTS

*		DOCUMENT NO	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
✓	A	1,419,100	6/1922	AYOTTE	87	177.2	
	B						
	C						
	D						
	E						
	F						
	G						
	H						
	I						
	J						
	K						

FOREIGN PATENT DOCUMENTS

*		DOCUMENT NO	DATE	COUNTRY	NAME	CLASS	SUB CLASS	PERTINENT SECTS.	PP. DRWG.
✓	L	840339	1/1939	FRANCE	GUIZENE	87	177.2	—	
✓	M	8003	12/1907	FRANCE	CISSÉE	87	177.2	—	
	N								
	O								
	P								
	Q								

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

R	
S	
T	
U	

EXAMINER	DATE
James G. Smith	9/4/85

* A copy of this reference is not being furnished with this office action. (See Manual of Patent Examining Procedure, Section 707.05(a).)

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO

EXAMINER

ART UNIT	PAPER NUMBER
	7

DATE MAILED

This communication from the Examiner in charge of your application

COMMISSIONER OF PATENTS AND TRADEMARKS

__ This application has been examined. X Responsive to communication filed on [illegible] X This action is made final.

A shortened statutory period for response to this action is set to expire 3 months, [illegible] from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. 133)

Part I. THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. __ Notice of References Cited by Examiner, PTO-892
2. __ Notice of Prior Art Cited by Applicant, PTO-1449
3. __ Information on How to Effect Drawing Changes, PTO-1474
4. __ Notice of Patent Drawing, PTO-948
5. __ Notice of Informal Patent Application, Form PTO-152
6. __ _____

Part II. SUMMARY OF ACTION:

1. X Claims 2 are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. X Claims 1 have been cancelled.
3. __ Claims _____ are allowed.
4. X Claims 2 are rejected.
5. __ Claims _____ are objected to.
6. __ Claims _____ are subject to restriction or election requirement.

7. __ This application has been filed with informal drawings which are acceptable for examination purposes until the time at which allowable subject matter is indicated.

8. __ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.

9. __ The corrected or substitute drawings have been received on _____. These drawings are __ acceptable; __ not acceptable (see explanation).

10. __ The __ proposed drawing correction and/or the __ proposed additional or substitute sheet(s) of drawings filed on _____ has (have) been __ approved by the examiner. __ disapproved by the examiner (see explanation).

11. __ The proposed drawing correction, filed _____, has been __ approved, __ disapproved (see explanation). Inasmuch as the Patent and Trademark Office no longer makes drawing changes, it is now application's responsibility to insure that the changes are effected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.

12. __ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has __ been received __ not been received __ been filed in parent application, serial no. _____ filed on _____

13. __ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.

14. __ Other

EXAMINER'S ACTION

1. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claim 2 is finally rejected under 35 U.S.C. 103 as being unpatentable over Ayotte or Lareau and Ossul, for the reason stated in the first Office action.

3. Applicant's arguments filed October 15, 1985 have been fully considered but they are not deemed to be persuasive.

4. Applicant argues that his 90° and 45° bend extensions are new improvements. The cited art however, proves otherwise. Extensions that have the claimed angle bends are old in the tool art. To place different combinations of extensions in a "tool kit" is also not new as all major tool catalogs show such packaging. Therefore, even the use of a set of extensions is not new.

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The practice of automatically extending the

shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

5. Any inquiry concerning this communication should be directed to James G. Smith at telephone number 703-557-6502.

12/12/85:rbb

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
06/[illegible]	[illegible]	[illegible]	

IRVIN D. STANGER
1019 ELLIS
WICHITA, KS 67211

EXAMINER
[illegible]

ART UNIT	PAPER NUMBER
	9

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS, AND TRADEMARKS

ADVISORY ACTION

☐ ~~THE PERIOD FOR RESPONSE IS EXTENDED TO RUN _____ MONTHS FROM THE DATE OF THE FINAL REJECTION. 37 C.F.R. 1.137~~

☐ Appellant's Brief is due in accordance with Rule 192 (a).

Applicant's response to the final rejection, filed _____, has been considered with the following effect, but it is not deemed to place the application in condition for allowance.

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:

   a. ☐ There is no convincing showing under Rule 116(b).
   b. ☐ They raise new issues that would require further consideration and/or search.
   c. ☐ They raise the issue of new matter.
   d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
   e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☐ Upon the filing of an appeal, the proposed amendment ☐ will be ☐ will not be entered and the status of the claims in this application would be as follows:

   a. ☐ Claims _____ would be allowable.

   b. ☐ Claims _____ would not be allowable.

   However:

   (1) ☐ The rejection of claims _____ on references is deemed to be overcome by applicant's response.
   (2) ☐ The rejection of claims _____ on non-reference grounds only is deemed to be overcome by applicant's response.

4. ☑ The affidavit, exhibit or request for reconsideration has been entered but does not overcome the rejection.

5. ☐ The affidavit or exhibit will not be admitted because applicant has not shown good and sufficient reasons why it was not earlier presented.

6. ☐ The application having been examined under the special accelerated examining procedure (M.P.E.P. 708.02), the proposed amendment has not been considered since it does not prima facie place the application in condition for allowance or in better condition for appeal.

PTO-303 (Rev. 10-90)

0255

The shortened statutory period for response expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection. Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a) accompanied by the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee.

Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

Any inquiry concerning this communication should be directed to James G. Smith at telephone number 703-557-6502.

James G. Smith
JAMES G. SMITH
EXAMINER
ART UNIT 323

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
[illegible]	[illegible]	[illegible]	

[illegible]
[illegible]
[illegible]

EXAMINER
[illegible]
ART UNIT / PAPER NUMBER
[illegible] / 5

DATE MAILED

This is a communication from the examiner in charge of your application

COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☒ Notice of References Cited by Examiner, PTO-892.
2. ☒ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449
4. ☒ Notice of Informal Patent Application, Form PTO-152
5. ☒ Information on How to Effect Drawing Changes, PTO-1474
6. ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claim(s) 1 are pending in the application.

   Of the above, claim(s) _____ are withdrawn from consideration.

2. ☐ Claim(s) _____ have been cancelled.
3. ☐ Claim(s) _____ are allowed.
4. ☒ Claim(s) 1 are rejected.
5. ☐ Claim(s) _____ are objected to.
6. ☐ Claim(s) _____ are subject to restriction or election requirement.
7. ☒ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable, ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved, ☐ disapproved (see explanation). Therefore, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____, filed on _____
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.
14. ☐ Other

PTOL-326 (Rev. 7-82) EXAMINER'S ACTION

1. Receipt is acknowledged of the letter submitted by applicant dated May 26, 1986. It is noted that the letter refers to activities in an abandoned case, serial no. 671,168. A complete action on the instant application, serial no 837,504, follows.

Specification:

2. On page 1 of the specification, line 5, "in which a prior application for" should be -- which is a continuation in part of -- to clearly identify the parent application.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. 112, first paragraph, as failing to provide an adequate written description of the invention.

The specification fails to disclose the ratcheting mechanism and structural cooperation between the elements of the "newly designed ratchet extension 30" to enable a ratcheting action. Correction is required with appropriate correction to the drawings. Applicant is cautioned against the inclusion of new matter.

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, for the reasons set forth in the above objection to the specification.

Drawings:

5. The drawings are objected to since they fail to clearly disclose the structure of the "newly designed ratchet extension 30". Also, figures 23-26 must be labeled as prior art.

6. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claims:

7. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim is narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device.

It is not clear ~~is~~ if applicant is claiming a set of angled socket extensions, or a set of angled socket extensions and conventional handles and/or extensions.

8. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the

differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

9. Claim 1 is rejected under 35 U.S.C. 103 as being unpatentable over Snap-on Tools Corporation in view of Ossul and Ayotte.

Snap-on Tools Corporation disclose a combined set of tools including a plurality of extensions (SX-2,3,5,10 and 8-L) which includes an angular extension (8-L). Also, included in the combination of tools are various sockets, a spinner handle (NS-18-L), ratchet handles (L-715, 710), a speeder handle (K-4-L), and a sliding bar handle (S-15-L). The extensions (SX-2,3,5,10 and 8-L) include round shafts, a square drive stud at one end, and a square socket at the opposite end of the shaft. Ossul discloses an extension (f) having a 90 degree angled bend, in combination with a straight extension (a). Ayotte discloses an extension (57) having a 45 degree angled bend in combination with an extension (Figure 1). To form some of the extensions of Snap-On Tools Corp. as angled in the manner as taught by

Ossul and Ayotte would have been obvious to one having ordinary skill in the art.

10. Mandl discloses a combination set of extensions, handles, and sockets. Adolphson and Erickson disclose a combination set of extensions. Bidal disclose plural angular extensions.

11. Any inquiry concerning this communication should be directed to Examiner Meislin at telephone number 703-557-2344.

12/15/86:rbb

DSMeislin 12/14/86

DEBRA S. MEISLIN
PATENT EXAMINER
GROUP 320 - ART UNIT 323

Cancelled
10-1-76

UNITED STATES DEPARTMENT OF COMMER
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARK
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO
07/104,176	10/05/87	STAGNER	

JOHN D. STAGNER
1619 ELLIS
WICHITA, KS 67211

EXAMINER
[illegible]

ART UNIT	PAPER NUMBE
[illegible]	4

DATE MAILED: 08/02/88

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

A detailed review of parent file Serial No. 06/837504 has shown that copendency did in fact exist on October 5, 1987 with this application, Serial No. 07/104176, contrary to the communication mailed July 22, 1988. Thus no action need be taken by applicant regarding application Serial No. 06/837504 to establish copendency. The Patent and Trademark Office regrets this error and any inconvenience it may have caused.

Any inquiry concerning this communication should be directed to Frederick R. Schmidt at telephone number 703-557-6506.

8/2/88

FR Schmidt:dli
8-2-88
(703) 557-6506

FREDERICK R. SCHMIDT
SUPERVISORY PATENT EXAMINER
ART UNIT 323

0000

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address COMMISSIONER OF PATENTS AND TRADEMARKS
Washington D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO
[illegible]	11-12-84	STINCHER	

[illegible] STINCHER
[illegible]
[illegible]

EXAMINER	
ART UNIT	PAPER NUMBER
[illegible]	3

DATE MAILED:

This is a communication from the examiner in charge of your application

COMMISSIONER OF PATENTS AND TRADEMARKS

☑ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ ~~days~~ from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☑ Notice of References Cited by Examiner, PTO-892.
2. ☑ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449
4. ☑ Notice of Informal Patent Application, Form PTO-152
5. ☐ Information on How to Effect Drawing Changes, PTO-1474
6. ☐ _____

Part II SUMMARY OF ACTION

1. ☑ Claims 1 ~~are~~ is pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☑ Claims 1 ~~are~~ is rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable, ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____, filed on _____
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.
14. ☐ Other

0855

Serial No. 671,167

Art Unit 323

1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim appears to recite only the function with no specific statement of the structure.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless-

3. (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent.

4. Claim 1 is rejected under 35 U.S.C. 102(a) as being clearly anticipated by Randall.

5. Applicant is required to submit a proposed drawing correction in response to this Office action. However, correction of the noted defect can be deferred until the application is allowed by the examiner.

6. It is called to applicant's attention that if a communication is mailed before the response time has expired applicant may submit the response with a "Certificate of Mailing" which merely asserts that the response is being mailed on a given date. So mailed, before the period of response has lapsed, the response is considered timely. A suggested format for a certificate follows.

7. Following is a suggested format for the certificate of mailing under 37 CFR 1.8(c) which should be included with all correspondence:

"I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of

Patents and Trademarks, Washington, D.C. 20231, on.....* .

_____
Name of applicant, assignee, or registered representative

_____
Signature

_____
Date

8. Any inquiry concerning this communication should be directed to Examiner James G. Smith at telephone number 703-557-6502.

JAMES G. SMITH
EXAMINER
ART UNIT 323

9/10/85:slw.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER NUMBER
	7

DATE MAILED

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☑ Responsive to communication filed on [illegible] ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), [illegible] from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. 133)

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, form PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐ _____

Part II SUMMARY OF ACTION

1. ☑ Claims 2 are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. ☑ Claims 1 have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☑ Claims 2 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing (or amendment) filed _____ has been [illegible] the Patent and Trademark Office in lieu of the original drawing. [illegible] corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached form PTO-1474, INFORMATION ON HOW TO EFFECT DRAWING CHANGES.
12. ☐ [illegible]
13. ☐ [illegible]

0933

1. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claim 2 is finally rejected under 35 U.S.C. 103 as being unpatentable over Murray in view of Randall.

It would be obvious to modify Murry by using a hex-shaped shank, instead of square, and to secure a wrench thereto with a bolt and washer, as suggested by Randall. To use a series of different size extensions in a set is obvious to one skilled in the art.

3. Applicant's arguments filed October 15, 1985 have been fully considered but they are not deemed to be persuasive.

4. Applicant's improvement over standard wrench extensions is that the square shank is made hexagonal so that it can engage in a box-end wrench opening. Further, in order to secure the wrench to the new extension, a bolt-washer is inserted into a threaded bore in the shank end of the extension. However Randall clearly

teaches that a box wrench can be extended by using an extension with a hexagonal shank and a bolt-washer to secure it to the wrench. Thus, using the suggestion provided by Randall,a person skilled in the tool art would find it obvious to modify a standard wrench extension such as that shown at (214) in Murray.

Further, all known tool catalogs show extensions provided in various sizes in a set.

Randall clearly teaches the improvement in regard to extensions, that is the hexagonal shank and the use of a bolt-washer to secure the extension and wrench. Since what applicant claims as new is already known in the prior art, to modify Murray, in view of the teaching of Randall, is obvious.

5. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a).

Applicant is reminded of the extension of time policy set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

6. Any inquiry concerning this communication should be directed to James G. Smith at telephone number 703-557-6502.

0935

James G. Smith
JAMES G. SMITH

12/12/85:rbb

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D C 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO
[illegible]	[illegible]	[illegible]	

[illegible]

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS, AND TRADEMARKS

ADVISORY ACTION

~~THE STATUTORY PERIOD FOR RESPONSE IS EXTENDED 3 MONTHS _____ MONTHS FROM THE DATE OF THE FINAL REJECTION 37 CFR 1.136~~

☐ Appellant's Brief is due in accordance with Rule 192 (a)

Applicant's response to the final rejection, filed _____, has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1 ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because

a ☐ There is no convincing showing under Rule 116(b)
b ☐ They raise new issues that would require further consideration and/or search
c ☐ They raise the issue of new matter
d ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal
e ☐ They present additional claims without cancelling a corresponding number of finally rejected claims

2 ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims

3 ☐ Upon the filing of an appeal, the proposed amendment ☐ will be ☐ will not be, entered and the status of the claims in this application would be as follows:

a ☐ Claims _____ would be allowable

b ☐ Claims _____ would not be allowable

However:

(1) ☐ The rejection of claims _____ on references is deemed to be overcome by applicant's response.

(2) ☐ The rejection of claims _____ on non reference grounds only is deemed to be overcome by applicant's response

4 ☒ The affidavit, exhibit or request for reconsideration has been entered but does not overcome the rejection

5 ☐ The affidavit or exhibit will not be admitted because applicant has not shown good and sufficient reasons why it was not earlier presented.

6 ☐ The application having been examined under the special accelerated examining procedure (M.P.E.P. 708.02), the proposed amendment has not been considered since it does not prima facie place the application in condition for allowance or in better condition for appeal

The shortened statutory period for response expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection. Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a) accompanied by the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee.

Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

Any inquiry concerning this communication should be directed to James G. Smith at telephone number 703-557-6302.

James G. Smith
JAMES G. SMITH
EXAMINER
ART UNIT 323

Address COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO
[illegible]	[illegible]	[illegible]	

EXAMINER	
[illegible]	
ART UNIT	PAPER NUMBER
	5

DATE MAILED

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

[X] This application has been examined [ ] Responsive to communication filed on _____ [ ] This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. [X] Notice of References Cited by Examiner, PTO-892.
2. [X] Notice re Patent Drawing, PTO-948.
3. [ ] Notice of Art Cited by Applicant, PTO-1449
4. [X] Notice of Informal Patent Application, Form PTO-152
5. [X] Information on How to Effect Drawing Changes, PTO-1474
6. [ ] _____

Part II SUMMARY OF ACTION

1. [X] Claims 1 are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.
2. [ ] Claims _____ have been cancelled.
3. [ ] Claims _____ are allowed.
4. [X] Claims 1 are rejected.
5. [ ] Claims _____ are objected to.
6. [ ] Claims _____ are subject to restriction or election requirement.
7. [X] This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. [ ] Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. [ ] The corrected or substitute drawings have been received on _____. These drawings are [ ] acceptable, [ ] not acceptable (see explanation).
10. [ ] The [ ] proposed drawing correction and/or the [ ] proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been [ ] approved by the examiner. [ ] disapproved by the examiner (see explanation).
11. [ ] The proposed drawing correction, filed _____, has been [ ] approved, [ ] disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. [ ] Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has [ ] been received [ ] not been received [ ] been filed in parent application, serial no. _____, filed on _____
13. [ ] Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.
14. [ ] Other

PTOL-326 (Rev. 7-82) EXAMINER'S ACTION

1. Receipt is acknowledged of the letter submitted by applicant dated May 26, 1986. It is noted that the letter refers to activities in an abandoned case, Serial No. 671,167. A complete action on the instant application, Serial No. 837,430, follows.

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

3. Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claims are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claims must be in one sentence form only. Note the format of the claims in the patents cited.

It is not known from the claim what the "improved tool" consists of in the claim, only that it includes elements that are not structurally related.

4. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> [illegible] shall not be [illegible] as prior art only under subsection (g)

and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

5. Claim 1 is rejected under 35 U.S.C. 103 as being unpatentable over Randall, Jr. in view of Murray and Osburn.

Randall, Jr. discloses all of the claimed subject matter except for having a "set" of wrench extensions of differing sizes and a "square socket head" on one end of the extension. Murray discloses a wrench extension for engagement with a double ended wrench at one end and a square socket head (64) at the opposite end thereof. It would have been obvious to one having ordinary skill in the art to form one end of the extension of Randall, Jr. with a square socket head such that any standard socket tool may be receivnd therein to provide a variety of specially adapted obstruction by-pass tools as taught by Murray. Osburn discloses a plurality or set of wrench extensions (4, 5) having differently sized hexagonal socket engaging portions (B', D'). It would have been obvious to one having ordinary skill in the art to form the device of Randall, Jr. as a set of wrench extensions to form a variety of tools of different sizes, lengths, and shape for workpieces having difficult access as taught by Osburn. The amount of extensions and the sizes of each would have been an obvious matter of choice.

6. Any inquiry concerning this communication should be directed to Examiner Meislin at telephone number 703-557-2344.

D. Meislin:klw

2-26-87

(703) 557-2344

D Meislin 3/2/87

DEBRA MEISLIN
PATENT EXAMINER
GROUP 320 - ART UNIT 323

NOTICE OF REFERENCES CITED	837430	323		5
	APPLICANT(S): Stagner			

U.S. PATENT DOCUMENTS

*		DOCUMENT NO	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	A	1446988	2-1923	Osborn	81	124.4	
	B	2743642	5-1956	Randall Jr	81	124.4	
	C	3996821	12-1976	Murray	81	58 x	
	D	3376768	4-1968	Fortunato	81	177.2	
	E						
	F						
	G						
	H						
	I						
	J						
	K						

FOREIGN PATENT DOCUMENTS

*		DOCUMENT NO	DATE	COUNTRY	NAME	CLASS	SUB CLASS	PERTINENT SECTIONS OF SPEC.
	L							
	M							
	N							
	O							
	P							
	Q							

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

R	
S	
T	
U	

EXAMINER	DATE
D. Maislin	2/25/87

* A copy of this reference is not being furnished with this office action. (See Manual of Patent Examining Procedure, section 707.05(a).)

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
[illegible]

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
[illegible]	[illegible]	[illegible]	

[illegible]
[illegible]
[illegible]

EXAMINER	
[illegible]	
ART UNIT	PAPER NUMBER
[illegible]	8

DATE MAILED
[illegible] 9 [illegible]

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 3-26-87 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, Form PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. _____

Part II SUMMARY OF ACTION

1. ☒ Claims 2 are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. ☒ Claims 1 have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 2 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter has been indicated. Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☐ The proposed drawing correction and/or the proposed additional or substitute sheet of drawings, filed on _____ has/have been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☒ The proposed drawing correction, filed _____, has been ☐ approved. ☐ disapproved (see explanation). Therefore, the drawings of this application are accepted by the Patent and Trademark Office as complying with the requirements of 37 CFR 1.84 except that marginal requirements are not met and formal changes must be made. Failure to take the required action set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474 will result in abandonment of the application.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has been received in parent application serial no. _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.
14. ☐ Other:

1342

1. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claim 2 is rejected under 35 U.S.C. 103 as being unpatentable over Randall Jr. in view of Murray and Osburn, all of record.

Randall, Jr. discloses all of the claimed subject matter except for having a "set" of extensions and a square socket head on one end of the extension. Note the straight, round shaft (12), flange (20), hexagonal nut shaped base (22), a washer (26) and a bolt (24, 28) which constitutes an extension handle for box wrenches. The opposite end of the extension has a threaded socket therein. Murray discloses a wrench extension for standard open-end or box-end wrenches including one end for connection to the wrench and its opposite end having formed as a standard square socket head. Note the socket (64) for engagement with a drive stud. It would have been obvious to one having ordinary

skill in the art to form one end of the extension of Randall, Jr. as a square socket head such that any standard tool may be received therein to provide a variety of specially adapted costruction by-pass tools as taught by Murray. Osburn discloses a plurality or set of wrench extensions (4, 5) having differently sized hexagonal socket engaging portions (B', D'). It would have been obvious to one having ordinary skill in the art to form the device of Randall, Jr. as a set of wrench extensions of various sizes, to enable utilization of the device on various sized workpieces having difficult access as taught by Osburn providing versalitity. The amount of extensions and their exact sizes would have been an obvious matter of choice as such sizes are notoriously old and well known in the art of wrenches. Note that to forge the device of Randall, Jr. and to form the flange, nut, and shaft as a unitary structure would have been obvious to one having ordinary skill in the art as such is merely an obvious engineering choice dependent upon choice of the manufacturer, and the convenience and availability of the machines and tools necessary to construct the device. Forging is an old and well known process and would have been an obvious method of manufacture.

3. Claim 1 has been canceled.

Remarks:

4. Applicant's arguments filed March 26, 1987 have been fully considered but they are not deemed to be persuasive.

The claim was properly rejected under 35 USC 103 as being unpatentable over Randall, Jr. in view of Murray and Osburn. The determination of obviousness follows the test for obviousness using Graham V. Deere.

The factual inquiries set forth in Graham v. John Deere Co. that are applied for establishing a background for determining obviousness under 35 U.S.C. 103 are summarized as follows:

1. Determining the scope and contents of the prior art;
2. Ascertaining the differences between the prior art and the claims at issue; and
3. Resolving the level of ordinary skill in the pertinent art.

Graham v. John Deere Co., 383 U.S. 1, 17, 148 U.S.P.Q. 459, 467 (.966).

5. Applicant's arguments with respect to any petition(s) are not on point.

6. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a).

Applicant is reminded of the extension of time policy set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

7. Any inquiry concerning this communication should be directed to Examiner Meislin at telephone number 703-557-2344.

6/9/87 srh
6/12/87
6/15/87

6/17/87
FREDERICK R. SCHMIDT
SUPERVISORY PATENT EXAMINER
ART UNIT 323

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
06/837,430	03/10/86	STAGNER	1

IRVIN D. STAGNER
1819 ELLIS
WICHITA, KS 67211

EXAMINER	
ART UNIT	PAPER NUMBER
	11

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE

☐ is extended to run _____ from the date of the Final Rejection

☐ continues to run _____ from the date of the Final Rejection

☒ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 7/7/87, has been considered with the following affect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
   - a ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
   - b ☐ They raise new issues that would require further consideration and/or search. (See Note).
   - c ☐ They raise the issue of new matter. (See Note).
   - d ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
   - e ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

   NOTE _____

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☐ Upon the filing of an appeal, the proposed amendment ☐ will be ☐ will not be, entered and the status of the claims in this application would be as follows:

   Allowed claims: _____

   Claims objected to: _____

   Claims rejected: _____

   However:

   - a ☐ The rejection of claims _____ on references is deemed to be overcome by applicant's response.
   - b ☐ The rejection of claims _____ on non-reference grounds only is deemed to be overcome by applicant's response.

4. ☒ The ~~affidavit, exhibit~~ or request for reconsideration has been considered but does not overcome the rejection.

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

1369

9/15/87

FREDERICK R. SCHMIDT
SUPERVISORY PATENT EXAMINER

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS, Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	✓

DATE MAILED

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☑ This application has been examined. ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 months, _____ days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133.

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☑ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, Form PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐ _____

Part II SUMMARY OF ACTION

1. ☑ Claims _____ are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☑ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable. ☐ not acceptable (see explanation).
10. ☐ The proposed drawing correction and/or the proposed additional or substitute sheet(s) of drawings, filed on _____ has/have been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved. ☐ disapproved (see explanation). Therefore, the drawings in this application are now considered by the Patent and Trademark Office to be informal. Applicant must submit new drawings in response to this Office action. The drawings must be corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has been ☐ received. ☐ not received. ☐ been filed in parent application, serial no. _____, filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.
14. ☐ Other.

PTOL-326 (Rev. 1-82) EXAMINER'S ACTION

1650

1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant appears to claim the standard wrench ratchet twice.

2. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

3. Claim 1 is rejected under 35 U.S.C. 103 as being unpatentable over Lechaug in view of the "G.M." disclosure p.86. It would be obvious to modify Lechaug by using a square hole, as opposed to a permanent handle, as such is suggested to be well known by the "G.M." disclosure.

4. It is called to applicant's attention that if a communication is mailed before the response time has expired applicant may submit the response with a "Certificate of Mailing" which merely asserts that the

response is being mailed on a given date. So mailed, before the period of response has lapsed, the response is considered timely. A suggested format for a certificate follows.

5. Following is a suggested format for the certificate of mailing under 37 CFR 1.8(c) which should be included with all correspondence:

"I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on....." .

Name of applicant, assignee, or registered representative

Signature

Date

6. Any inquiry concerning this communication should be directed to Examiner James G. Smith at telephone number 703-557-6502.

9/10/85:slw.

FORM PTO-892 (REV. 3-78)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

NOTICE OF REFERENCES CITED

SERIAL NO	GROUP ART UNIT	ATTACHMENT TO PAPER NUMBER	
671169	323		4

APPLICANT(S): Stacy et al

U.S. PATENT DOCUMENTS

*		DOCUMENT NO	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
✓	A	2,260,761	9/1941	Lee et al	87	177.2	
✓	B	731,888	6/1903	George	87	177.2	
✓	C	3,467,908	9/1969	Rand	87	016.5	
✓	D	2,832,246	4/1958	Livermont	87	016.5	
✓	E	3,343,434	9/1967	Schneeberg	87	60	
	F						
	G						
	H						
	I						
	J						
	K						

FOREIGN PATENT DOCUMENTS

*		DOCUMENT NO	DATE	COUNTRY	NAME	CLASS	SUB CLASS	PERTINENT SHEETS DRAWING	PP. DESC.
	L								
	M								
	N								
	O								
	P								
	Q								

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

✓	R	"Service Tools for GM Cars", Sunnen Tool Catalog, 5/1951, pp 86 & 87
	S	
	T	
	U	

EXAMINER	DATE
James C. Smith	9/6/85

* A copy of this reference is not being furnished with this office action.
See Manual of Patent Examining Procedure, section 707.05(a).

1653

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	5

DATE MAILED

This is a communication from the examiner in charge of your application

COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☑ Responsive to communication filed on 10-15-85 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), ____ days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449
4. ☐ Notice of Informal Patent Application, Form PTO-152
5. ☐ Information on How to Effect Drawing Changes, PTO-1474
6. ☐ ____

Part II SUMMARY OF ACTION

1. ☑ Claims 2 are pending in the application.

   Of the above, claims ____ are withdrawn from consideration.

2. ☑ Claims 1 have been cancelled.
3. ☐ Claims ____ are allowed.
4. ☑ Claims 2 are rejected.
5. ☐ Claims ____ are objected to.
6. ☐ Claims ____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on ____. These drawings are ☐ acceptable. ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on ____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed ____, has been ☐ approved. ☐ disapproved (see explanation). Therefore, the Patent and Trademark Office no longer makes drawing changes. It is now incumbent upon applicant's attorney or agent to place the drawing in condition for allowance. corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. ____, filed on ____
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.
14. ☐ Other

PTOL-326 (Rev. 7-82) EXAMINER'S ACTION

1716

1. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claim 2 is finally rejected under 35 U.S.C. 103 as being unpatentable over Leehaug in view of the G. M." disclosure page 86, for the reason stated in the first Office action.

3. Applicant's arguments filed October 15, 1985 have been fully considered but they are not deemed to be persuasive.

4. Applicant's numerous court decisions regarding unobviousness are noted, however Leehaug clearly shows a U-shaped member with a handle on one side and a ratchet on the other. Further, the G.M. disclosure provides a clear suggestion to one skilled in the art that a square hole can be attached to a U-shaped member to allow a removable turning handle to be secured. To therefore modify Leehaug, in view of this clear teaching, is obvious.

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

6. Any inquiry concerning this communication should be directed to Examiner James G. Smith at telephone number 703-557-6502.

James G. Smith
JAMES G. SMITH
EXAMINER
ART UNIT 323

12/11/85:cjk

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
[illegible]	[illegible]	[illegible]	

[illegible]
[illegible]
[illegible]

EXAMINER
ART UNIT / PAPER NUMBER
10

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS, AND TRADEMARKS

ADVISORY ACTION

☐ [illegible] REFERENCE [illegible] RULE [illegible] THE [illegible] FINAL REJECTION [illegible]

☐ Appellant's Brief is due in accordance with Rule 192 (a)

Applicant's response to the final rejection, filed _____, has been considered with the following effect, but it is not deemed to place the application in condition for allowance

1 ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because

a ☐ There is no convincing showing under Rule 116(b)
b ☐ They raise new issues that would require further consideration and/or search
c ☐ They raise the issue of new matter
d ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal
e ☐ They present additional claims without cancelling a corresponding number of finally rejected claims

2 ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non allowable claims

3 ☐ Upon the filing of an appeal, the proposed amendment ☐ will be ☐ will not be entered and the status of the claims in the application would be as follows

a ☐ Claims _____ would be allowable

b ☐ Claims _____ would not be allowable

However

(1) ☐ The rejection of claims _____ on references is deemed to be overcome by applicant's response

(2) ☐ The rejection of claims _____ on non reference grounds only is deemed to be overcome by applicant's response

4 ☑ The affidavit, exhibit or request for reconsideration has been entered but does not overcome the rejection

5 ☐ The affidavit or exhibit will not be admitted because applicant has not shown good and sufficient reasons why it was not earlier presented

6 ☐ The application having been examined under the special accelerated examining procedure (M.P.E.P. 708.02), the proposed amendment has not been considered since it does not prima facie place the application in condition for allowance or in better condition for appeal

Official Rec. [illegible]

1812

The shortened statutory period for response expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection. Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a) accompanied by the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee.

Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

Any inquiry concerning this communication should be directed to James G. Smith at telephone number 703-557-6502.

James G. Smith
JAMES G. SMITH
EXAMINER
ART UNIT 323

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO
06/837,502	03/10/86	STAGNER T	

IRVIN D. STAGNER
1014 ELLIS
WICHITA, KS 67211

EXAMINER
[illegible]

ART UNIT	PAPER NUMBER
333	5

DATE MAILED: 07/15/87

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

[X] This application has been examined. [ ] Responsive to communication filed on _____. [ ] This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. [X] Notice of References Cited by Examiner, PTO-892.
2. [X] Notice re Patent Drawing, PTO-948.
3. [ ] Notice of Art Cited by Applicant, PTO-1449.
4. [ ] Notice of Informal Patent Application, Form PTO-152.
5. [X] Information on How to Effect Drawing Changes, PTO-1474.
6. [ ] _____

Part II SUMMARY OF ACTION

1. [X] Claims 1 - 3 pending in the application.
   Of the above, claims _____ are withdrawn from consideration.
2. [ ] Claims _____ have been cancelled.
3. [ ] Claims _____ are allowed.
4. [X] Claims 1 - 3 are rejected.
5. [ ] Claims _____ are objected to.
6. [ ] Claims _____ are subject to restriction or election requirement.
7. [X] This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. [ ] Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. [ ] The corrected or substitute drawings have been received on _____. These drawings are [ ] acceptable; [ ] not acceptable (see explanation).
10. [ ] The [ ] proposed drawing correction and/or the [ ] proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been [ ] approved by the examiner. [ ] disapproved by the examiner (see explanation).
11. [ ] The proposed drawing correction, filed _____, has been [ ] approved. [ ] disapproved (see explanation). Therefore, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. [ ] Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has [ ] been received. [ ] not been received. [ ] been filed in parent application, serial no. _____, filed on _____.
13. [ ] Since this application appears to be in condition for allowance except for formal matters, prosecution is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.
14. [ ] Other.

1978

1. Receipt is acknowledged of the letter submitted by applicant dated May 26, 1986. It is noted that the letter refers to activities in an abandoned case, Serial No. 671,169. A complete action on the instant application, Serial No. 837,502, follows.

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

3. Applicant is reminded of the proper content of an Abstract of the Disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains.

If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure.

If the patent is in the nature of an imorovement in an old apparatus, process, product, or comoosition, the abstract should include the technical disclosure of the improvement.

In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not oovious, the abstract should set forth a process for making and/or use thereof.

If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following: (1) if a machine or apparatus, its organization and operation; (2) if an article, its method of making; (3) if a chemical compound, its identity and use; (4) if a mixture, its ingredients; (5) if a process, the steps. Extensive mechanical and design details of apparatus should not be given.

4. Applicant is reminded of the proper language and format of an Abstract of the Disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said", should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claims are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patents cited.

It is not known from the claim what the "improved tool" comprises as the claims recite numerous elements that are not structurally related.

6. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention

1950

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

7. Claim 1, is best understood, is rejected under 35 U.S.C. 103 as being unpatentable over Snap-On-Tools in view of Schroeder.

Snap-On-Tools discloses U-shaped handles having a wrench at one end and a drive stud receiving socket in the opposite end as seen on page 84 ([B] S-8666) and page 86 ([A]-[E] S-8164-A, S-9524, S-8663, S-9825, S-9825B, S-9513-C). Schroeder discloses a U-shaped handle having a ratchet wrench (14-17) at one end thereof. It would have been obvious to one having ordinary skill in the art to form the wrench end of the Snap-On-Tools as a ratchet wrench to enable ratcheting of the wrench as taught by Schroeder. Note that the type of ratchet wrench claimed is admitted as "standard" by applicant.

8. Johnson and Leehaug are cited to show ratchet wrench, having a U-shaped handle.

9. Any inquiry concerning this communication should be directed to Examiner Meislin at telephone number 703-557-2344.

2/13/87 srh

Debra Meislin 2/17/87
DEBRA MEISLIN
PATENT EXAMINER
GROUP 320 - ART UNIT 323

FORM PTO-892 (REV. 3-78) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

NOTICE OF REFERENCES CITED

SERIAL NO	GROUP ART UNIT	ATTACHMENT TO PAPER NUMBER	
837502	323		5

APPLICANT(S) Stagner

U.S. PATENT DOCUMENTS

*		DOCUMENT NO.	DATE	NAME	CLASS	SUB-CLASS	FILING DATE IF APPROPRIATE
	A	D261591	9-1981	Leeburg	81	177.2 x	
	B	754069	3-1904	Johnson	81	177.85 x	
	C	3304343	9-1967	Schroeder	81	177.2 x	
	D						
	E						
	F						
	G						
	H						
	I						
	J						
	K						

FOREIGN PATENT DOCUMENTS

*		DOCUMENT NO	DATE	COUNTRY	NAME	CLASS	SUB-CLASS	PERTINENT SECTIONS OF DRAWINGS
	L							
	M							
	N							
	O							
	P							
	Q							

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

R	"Service Tools For GM Cars" and "Special Tool Service Tools That Save", Snap-On Tool Catalog S-451 pp 54, 56, 87, & 177.1
S	
T	
U	

EXAMINER D. Weston DATE 3/12/87

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO
06/837,502	03/10/86	STAGNER	

IRVIN D. STAGNER
1014 ELLIS
WICHITA, KS 67211

EXAMINER	
[illegible]	
ART UNIT	PAPER NUMBER
[illegible]	8

DATE MAILED: 06/11/87

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 3-19-87 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449
4. ☐ Notice of Informal Patent Application, Form PTO-152
5. ☐ Information on How to Effect Drawing Changes, PTO-1474
6. ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 2 are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. ☒ Claims 1 have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 2 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable, ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved, ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____, filed on _____
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.
14. ☐ Other

1. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claim 2 is rejected under 35 U.S.C. 103 as being unpatentable over Snap-On-Tools in view of Schroeder, both of record.

Snap-On-Tools discloses U-shaped handles having a wrench at one end and a drive stud receiving socket in the opposite end as seen on page 84 ([B] S-~~86636~~ 8666) and page 86 ([A]-[E] S-8164-A, S-9524, S-8663, S-9825, S-9825B, S-9513-C) Schroeder discloses a U-shape handle having a conventional ratchet mechanism (14-17) at one end thereof. It would have been obvious to one having ordinary skill in the art to form the wrench portion of Snap-On-Tools as a ratchet wrench to enable ratcheting of the wrench as taught by Schroeder such that a workpiece may be rotated with constant engagement by the wrench. The type of ratchet wrench claimed is admitted prior art.

3. Claim 1 has been canceled.

REMARKS:

4. Applicant's arguments filed March 19, 1987 have been fully considered but they are not deemed to be persuasive.

The claim was properly rejected under 35 USC 103 as being unpatentable over Snap-On-Tools in view of Schroeder. The determination of obviousness follows the test for obviousness using Graham v. Deere.

The factual inquiries set forth in Graham v. John Deere Co. that are applied for establishing a background for determining obviousness under 35 U.S.C. 103 are summarized as follows:

> 1. Determining the scope and contents of the prior art;
> 2. Ascertaining the differences between the prior art and the claims at issue; and
> 3. Resolving the level of ordinary skill in the pertinent art.

Graham v. John Deere Co., 383 U.S. 1, 17, 148 U.S.P.Q. 459, 467 (1966).

5. Applicant's arguments with respect to any petitions are not on point.

6. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a).

Applicant is reminded of the extension of time policy set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM

THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

7. Any inquiry concerning this communication should be directed to Examiner Meislin at telephone number 703-557-2344.

6/9/87

FREDERICK R. SCHMIDT
SUPERVISORY PATENT EXAMINER
ART UNIT 323

6/9/87

D. Meislin:klw

6-5-87

(703) 557-2344

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
06/837,502	03/10/86	STAGNER, I.	

IRVIN D. STAGNER
1819 ELLIS
WICHITA, KS 67211

EXAMINER
[illegible]
ART UNIT	**PAPER NUMBER**
323	11

DATE MAILED: 09/13/87

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE

☐ is extended to run _____ from the date of the Final Rejection

☐ continues to run _____ from the date of the Final Rejection

☒ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 7/7/87, has been considered with the following effect, but it is not deemed to place the application in condition for allowance.

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
   - a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
   - b. ☐ They raise new issues that would require further consideration and/or search. (See Note)
   - c. ☐ They raise the issue of new matter. (See Note)
   - d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
   - e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

   NOTE _____

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment canceling the non-allowable claims.

3. ☐ Upon the filing of an appeal, the proposed amendment ☐ will be ☐ will not be entered, and the status of the claims in this application would be as follows:

   Allowed claims _____
   Claims objected to: _____
   Claims rejected _____

   However:
   - a. ☐ The rejection of claims _____ on references is deemed to be overcome by applicant's response.
   - b. ☐ The rejection of claims _____ on non-reference grounds only is deemed to be overcome by applicant's response.

4. ☒ The ~~[illegible]~~ or request for reconsideration has been considered but does not overcome the rejection.

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

9/10/87

EXAMINER

Group 320
Art Unit 323
aw

UNITED STATES D. ·ARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

February 13, 1986

#10

In re application of:
Irvin D. Stagner :
Serial Number: 671,168 : DECISION ON PETITION
Filed: November 13, 1984 : JANUARY 2, 1986
For: COMBINED 90 DEGREE AND 45 :
DEGREE ANGLED SOCKET :
EXTENSION SET

This is in response to the petition filed January 2, 1986 under 37 C.F.R. 1.181 requesting the Commissioner to invoke his supervisory authority and cause reexamination and reconsideration of this application.

The petitioner argues first that the Examiner's rejections were incomplete and not in compliance with 37 C.F.R. 1.104(a) and 37 C.F.R. 1.105 and second that the Examiner had erred in rejecting the claims on the prior art references.

With regard to petitioner's first argument, it is pointed out that the petition does not show specifically how 37 C.F.R. 1.104(a) and 1.105 have not been complied with. These Rules require the Examiner to give the application complete examination as to merit and form. A review of the record indicates that the Examiner has done so and thus it is not agreed that he has failed to comply with these Rules.

The remaining and second argument appears to be directed entirely to the merits of the Examiner's rejection of the claim.

The Patent and Trademark Office in administering the Patent Laws makes many decisions of a discretionary nature which the applicant may feel deny him the patent protection to which he is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art, as is the situation here, the questions thereby raised are said to relate to merits. The statutes provide an Appeal procedure to the combined Board of Appeals and Interferences to resolve these differences.

The petition is DENIED.

Samih Zaharna

Samih N. Zaharna, Director
Patent Examining Group 320
Mateial Shaping,
Article Manufacturing, Tools

Irvin D. Stagner 0257
1814 Ellis
Wichita, Kansas 67211

oup 320
t Unit 323

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

ril 29, 1987

re application of:
vin D. Stagner :
rial Number: 837,430 :
led: March 10, 1986 :
: WRENCH EXTENSION SET : ON PETITION

is is in response to the petition filed under 37 C.F.R. 1.181 on rch 26, 1987 requesting the next action by the Examiner be orough and in compliance with the patent statutes and rules.

itioner argues the March 3, 1987 Office action was incomplete cause: (1) the Examiner did not cite the best references;) the Examiner did not explain the rejection clearly; and) the Examiner substituted herself for a person of ordinary ill in the art.

itioner's basis for alleging the Examiner did not cite the best ferences is not understood. How did the petitioner conclude that re is better prior art. Is petitioner aware of other prior material to the examination of the application and better than t cited by the Examiner? If so, petitioner is reminded of his y under 37 C.F.R. 1.56 to disclose material prior art and the sibility of rejection under 35 U.S.C. 131 and 132 for failure discharge that duty.

h regard to the second point, it is not clear what portions of rejection the petitioner believes have not having been fully lained. Petitioner has not cited any specific deficiencies in March 3, 1987 Office action as set forth by 37 C. F.R. 1.111.

h regard to the third point, the patent statutes, rules and ent and Trademark Office procedure require the Examiner to olve the level of ordinary skill in the art in every ermination of obviousness. This is what the Examiner has done this case and hence it is not seen where the Examiner has done thing other than what is required by the statutes, the rules Patent and Trademark the practice and procedure.

petition is GRANTED to the extent that all Office actions will tinue to be clear and complete.

ih N. Zaharna, Director
ent Examining Group 320
erial Shaping,
icle Manufacturing, Tools

339
in D. Stagner
4 Ellis
hita Kansas 67211

Group 320
Art Unit 323
aw

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

May 15, 1986

#13

In re application of:
Irvin D. Stagner :
Serial Number: 671,167 : RESPONSE TO COMMUNICATION
Filed: November 13, 1984 : FILED MARCH 3, 1986 and
For: WRENCH EXTENSION SET : MARCH 10, 1986

This is in response to the communication received March 3 and two communications received March 10, 1986.

The communication of March 3, 1986 is being treated as a request for reconsideration of the Decision on Petition mailed February 13, 1986. Petitioner argues the main points of the petition were overlooked and not studied thoroughly. However, petitioner has failed to specify exactly which points were overlooked. Both the petition and request for reconsideration have been carefully studied. No factual evidence has been submitted that would alter the February 13, 1986 Decision. Thus the request for reconsideration has been granted, however the decision on petition mailed February 13, 1986 stands.

One communication filed March 10, 1986 consists of a listing of legal interpretations of the patent statutes and general allegations regarding the patentability of the wrench extension set. This paper has been made of record in the application file but is not responsive to the December 18, 1985 final rejection.

The other communication filed March 10, 1986 consists of a copy of the petition filed January 2, 1986 and a copy of the application papers as originally filed along with a request to file a new application. The request for filing a new application is incomplete because it does not include the $170.00 small entity filing fee required by 37 C.F.R. 1.16. The maximum six month period for response to the final rejection ends June 18, 1986. Any further action by petitioner (i.e. filing of a notice of Appeal or filing of a new application with continuity to this parent application) must be filed in the U. S. Patent and Trademark Office by that date.

Summary: The request for reconsideration is GRANTED, however it does not effect the Decision on Petition of February 13, 1986.

Samih Zaharna

Samih N. Zaharna, Director
Patent Examining Group 320
Material Shaping,
Article Manufacturing, Tools

Irvin D. Stagner
1814 Ellis
Wichita, Kansas 67211

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

#10

AMT/BRG/myl

AUG 21 1987

Mr. Irvin D. Stagner
1814 Ellis
Wichita, Kansas 67211

Dear Mr. Stagner:

Thank you for your letters received February 19, 1987, March 20, 1987 and March 26, 1987 concerning applications Serial Nos. 837,430, and 837,502 and 837,504 and the corresponding parent applications Serial Nos. 671,167, and 671,168 and 671,169.

In response to your inquiry concerning the actions and communications you have had with patent examining professionals of Examining Group 320 relating to the above identified applications, a careful review has been made of all records concerning the prosecution of these applications. There is nothing of record which would indicate that either Mr. Zaharna, the Group Director, or his examiners have acted in any manner inconsistent with the statutes and rules governing the prosecution of applications for patents. In fact, the record would seem to indicate that Mr. Zaharna and his examiners have provided more than ample assistance to you as an applicant from both the legal and procedural aspects of applying for a patent.

Part of your difficulty may arise from the complex nature of the proceedings which often occur in prosecuting patent applications. For example, you made numerous complaints about receiving "ex parte examination". Since all proceedings before the Patent and Trademark Office are to be ex parte proceedings, except for interference proceedings which are not applicable here, it would be improper for your applications or any application to be considered in any other manner. Ex parte examination means that the Patent and Trademark Office will deal only with applicant or his appointed representative. Third parties may not be involved in the Office's consideration of a patent application.

It also appears that you may not fully appreciate the distinction between appealable and petitionable matters. As stated in the Manual of Patent Examining Procedure (page 1, column 2, paragraph 3), "the portion of the examiner's action pertaining to objections on formal matters may be reviewed by petition to the Commissioner of Patents and Trademarks (see §1002) and that portion of the examiner's action pertaining to the rejection of claims on the merits, may be reviewed by appeal to the Board of Appeals (see §1201)." Rejections of claims based upon prior art (i.e., 35 U.S.C. 102 and/or 35 U.S.C. 103) clearly relate to the merits of the case and, therefore, are appealable rather than petitionable matters.

In view of the above, Mr. Zaharna rendered a proper decision on your petition filed under 37 CFR 1.181, since the rejection of claims was based on prior art which is in fact on the merits. As already indicated, issues concerning rejections on the merits are resolvable only by appeal.

Since the prosecution of patent applications involves complex legal and technical issues, it cannot be emphasized enough that, whenever possible, applicants should obtain the assistance and expertise of a patent practitioner. In any case in view of the history and present status of your applications, it is believed that procurement of the services of a patent practitioner would expedite further processing, maximize protection of your rights to any patentable invention(s), and alleviate your concerns about fair and equal treatment.

Sincerely yours,

James E. Denny
Deputy Assistant Commissioner for Patents

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SEP 17 1987

#10½

Mr. Irvin Stagner 1814
1814 Ellis
Wichita, Kansas 67211

Dear Mr. Stagner:

This is in response to your letters addressed to Mr. James E. Denny and Mr. Donald Quigg, respectively, received September 1, 1987 concerning applications Serial Numbers 837,430; 837,502; and 837,504.

The letters allege that the patent examining professionals of Examining Group 320 are one-sided in the examination of your applications and are not willing to accept the evidence of patentability that you have presented. A request is made under 37 CFR 1.181(a) to bring corrective action and cause the examiner to be equal toward your applications as the examiner is toward the prior art.

A review of the prosecution history of the involved applications finds nothing of record to indicate that either Mr. Zaharna, the Group Director, or his examiners acted in any manner inconsistent with the statutes and rules governing the prosecution of applications for patents. Also, there is nothing of record to support the allegation that the examiner has not considered your arguments for patentability.

As stated in the Manual of Patent Examining Procedure at page 1, column 2, paragraph 3, "That portion of the examiner's action pertaining to objections on formal matters may be reviewed by petition to the Commissioner of Patents and Trademarks (see §1002) and that portion of the examiner's action pertaining to the rejection of claims on the merits may be reviewed by appeal to the Board of Appeals (see §1201)." The rejection of the claims based upon prior art is accordingly an appealable matter rather than petitionable. Applicant's disagreement with the examiner over the relevance of the prior art must be appealed to the Board of Patent Appeals and Interferences.

A review by the Commissioner under 37 CFR 1.181(a) is inappropriate in this instance as your applications are subject to appeal and no inappropriate action on the part of the examining personnel in Group 320 has been shown.

Sincerely yours,

Jeffrey V. Nase
Petitions Examiner
Office of the Deputy Assistant
Commissioner for Patents

1201 Introduction

The Patent and Trademark Office in administering the Patent Laws makes many decisions of a discretionary nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art or material deficiencies in the disclosure set forth in the application, the questions thereby raised are said to relate to merits, and appeal procedure within the Patent and Trademark Office and to the courts has long been provided by statute.

The line of demarcation between appealable matters for the Board of Appeals and petitionable matters for the Commissioner of Patents and Trademarks should be carefully observed. The Board will not ordinarily hear a question which it believes should be decided by the Commissioner, and the Commissioner will not ordinarily entertain a petition where the question presented is an appealable matter. However, since 37 CFR 1.181(f) states that any petition not filed within two months from the action complained of may be dismissed as untimely and since 37 CFR 1.144 states that petitions from restriction requirements must be filed no later than appeal, petitionable matters will rarely be present in a case by the time it is before the Board for a decision. Note In re Hengehold, 169 USPQ 473 (CCPA 1971).

1202 Channels of Ex Parte Review